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4 SHARON ZIEROTH,

5 Plaintiff,

6 v.

7 ALEX AZAR,

8 Defendant.

9 Case No. 20-cv-00172-MMC

10 **ORDER DENYING WITHOUT  
PREJUDICE PLAINTIFF'S MOTION  
FOR SUMMARY JUDGMENT**

11 Re: Dkt. No. 11

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13 The Court is in receipt of plaintiff's Motion for Summary Judgment, filed January  
14 15, 2020.

15 Plaintiff has not filed proof of service of the summons and complaint on defendant  
16 Alex Azar. Additionally, the instant action seeks judicial review of findings made by the  
17 Medicare Appeals Council and defendant, having not yet appeared, has not filed the  
18 administrative record. See Civil L.R. 16-5 (providing in actions for review on  
19 administrative record, defendant shall file answer and administrative record within ninety  
20 days of service of summons and complaint).

21 Accordingly, the motion is hereby DENIED, without prejudice to refiling after  
22 defendant has been served and has filed an answer and the administrative record. See  
23 Civil L.R. 16-5 (providing plaintiff shall file motion for summary judgment "[w]ithin 28 days  
24 of receipt of defendant's answer").

25 **IT IS SO ORDERED.**

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27 Dated: January 17, 2020

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MAKINE M. CHESNEY  
United States District Judge